

Mortgage Broker Practices Act Rulemaking
Panel Meeting Minutes
May 10, 2006

Panel members present: Chuck Cross, Deb Bortner, Jeff Berglund, Adam Stein, Laura Kiel, and Jeffrey Lorsch

Absent: Rich Bennion and Catherine Mele-Hetter

1. Introductions

Chuck introduced the Panel and other DFI staff present.

2. Recap of Meeting Format and Protocols

Chuck reminded the audience to sign in on the attendance sheet, and sign up on the public comment sheet if they want to make comments. At the appropriate time, they'll be asked to come to the microphone, state their name, and give their comments.

All meeting information will be posted on DFI's website, www.dfi.wa.gov. The best way to make your comments is through the comment form on the website. Second best, is to submit written comments. Oral comments are okay, but the preferred method is through our website.

3. Document Status Report - MBWACv20060508 – First Version - projected on TV monitors

Deb explained that this is the first official version, MBWACv20060508.

- If the answer and/or question is in black, it has been approved.
- If the answer and/or question is highlighted in yellow, it is waiting to be approved.
- If part of it is yellow, that part is new since the last meeting.
- Most of the underlining should have been taken out. They will be taken out in the next version.

Highlights of the areas that have changed since the last Panel meeting:

Page 1 - Definition for the term "rule."

Page 2 – New Section. What is the scope and coverage of the Mortgage Broker Practices Act and these rules?

Page 3 (1) – Defined "Act."

Page 4 - (7) – Defined “bait and switch.”

Page 6 – (15) – Additions to the definition of “control.”

Page 7 – (23) – Added to the definition of “financial misconduct.”

Page 10 – (38) – Addition to the definition of “residential mortgage loan.”

Page 10 – (39) – “Residential real estate” definition. We will renumber. Make an “a” out of “Residential real estate includes, but is not limited to:” and make bullets under that. Add “cooperatives” between the current (e) and (f). Make a “b” out of “however, residential real estate does not include:” and add bullets under that.

Page 11 – (40) – Added to the definition of “subsidiary.”

C. EXEMPTION FROM LICENSING

There are additions to some of the exemptions from licensing section from the last meeting.

Today we will consider sections under K. LOAN ORIGINATOR LICENSING.

The voice in the answers throughout this document is varied. Chuck will explain how we will fix that.

Chuck – We’re writing these rules by Sub-Panels. There are 8-10 different people drafting language. Our attorneys will turn the language into one voice, because it sounds choppy and confusing now. The phrasing or tone will be changed to give it a singular voice. (i.e. can I do the following vs. can a loan originator do the following.) It is not the intent of the DFI attorneys to change the meaning of any of this language, just make it more readable.

The audience should go to the DFI website and print out a copy of the handouts to bring to these meetings. We’ll project the handouts on the overhead monitor today.

4. **Reading and assignment of public comments to date** – projected on TV monitors

Comments Received April 22 – May 5, 2006

1. Comment:

a. Here are some comments to the proposed rule for Mortgage Brokers Practices Act. When will there be meetings on this side of the state especially in the Tri-Cities area? Below are some questions with potential solutions or recommendations, please consider them in the rulemaking process.

Jeffrey – It would make sense to include people from eastern WA in the rules dialogue.

Adam – How about Spokane? There are more people in that area than in the Tri-Cities.

Chuck – We need to think about the logistics of this. We would have to pay to fly the rest of the Commission and about seven DFI staff.

Jeffrey – We have had Mortgage Broker Commission meetings in Spokane for the past few years. The next MB Commission meeting is August 9, which is a little late for these rules since they need to be done by August 23.

Chuck – We'll look into the feasibility of having a meeting on the east side of the state. If that doesn't work out, this information is on the Internet and people can also send us comments.

Questions and recommended actions submitted for comments to House Bill 2340:

Background: As of January 1, 2006; the State of Oregon requires that anyone originating a residential mortgage have taken and pass an examination after completing entry level education.

This entry education consisted of Oregon 20-Hour course contains the following modules:

Oregon State Law comprehensive coverage of the Oregon State Law, with a section-by-section breakdown that offers both seasoned and novice mortgage brokers a plainly written companion to the Oregon State Code.

Real Estate Settlement Procedures Act (RESPA) defines the parameters set forth by this federal law regarding fees and compensations, required disclosures, escrow accounts, violation penalties, as well as an expansive section covering Affiliated Business Arrangements.

Truth-in-Lending Act (TIL or TILA) lays out disclosure and advertising requirements, rights of recession, and penalties for violation, as stated in this federal statute, as well as a detailed APR explanation.

Equal Credit Opportunity Act (ECOA) addresses discrimination, enforcement, civil liability, and annual reports as defined by this federal law.

Fair Housing Law defines prohibitions, discriminations, religious and private club exemptions, enforcements, and penalties, as outlined in this federal law.

Fair Credit Reporting Act (FCRA) contains a summary of consumer rights, as well as uses for consumer reports for both lenders and employers.

Federal Law Update outlines Gramm-Leach Bliley privacy policies, required disclosures, and government monitoring information, as well as covering the Flood Disaster Protection Act, the National Flood Insurance Act and the Home Mortgage Disclosure Act.

Ethics examines ethical practice through theories and case studies, along with definitions of predatory lending practices.

Mortgage Basics expansive module that offers a mortgage glossary, information on loan processes and life cycles, mortgage math, income verification and calculation, credit bureaus, private mortgage insurance, and underwriting guidelines, as well as a number of other practical insights into time management, listening skills, and resolutions and goal setting.

b. Question: If a loan originator is licensed in another state where there is an education requirement and an examination required such Oregon, can that satisfy the license requirements for Washington?

Solution: Advantage of this supports the basis of the new rule, which is to specify a minimum level of education and establish a continuing education requirement. The knowledge of the Federal Requirements for the Mortgage Industry would more than satisfy this requirement.

[Licensing Sub-Panel.](#)

c. Question: Can continuing education classes taken under the requirements of one state satisfy the requirements for continuing education in Washington?

Solution: All loan originators are required to take 20 hours of continuing education every two-year period. Courses must be approved by the Oregon Mortgage Lender Education Board (MLEB) and are listed on their web site at Approved Courses, Entry-Level and Continuing Ed.

[Licensing Sub-Panel.](#)

d. Question: When will the courses be available for study prior to taking a test that is due before January 2007?

Solution: Allowances for other states licensing requirements would satisfy this potential short fall.

[Licensing Sub-Panel.](#)

e. Final Comment: For those of us who hold licenses in multiple states, would appreciate being able to get credit for having taken tests to meet those States initial requirements seeing how the information is applicable in more then one state. Secondly, consideration for the time and cost to satisfy the continuing education requirements for multiple states all at one time to maintain our proficiency.

Comment. Doesn't need to be assigned.

2. Continuation of first comment:

a. What will it take to get a meeting scheduled for the eastern side of the state?

Duplicate.

b. I was just thinking you might get more comments or interaction from folks who don't have to travel to Renton to attend the meeting. The other thing I would like to add to my comments is the ability to take the exam in the Tri-Cities vice driving to the other side of the state or to Spokane to the Compusa store.

The Licensing Sub-Panel is working on this.

3. Comment:

(1) If exam preparation and training is given exclusively to WAMB, what assurance do we have that WAMB will not exploit the advantageous position this puts them in? Doesn't this have the appearance of impropriety?

We should have something fleshed out for the June 1 Panel meeting.

(2) If only national associations are allowed to train, where are the educational standards used by them? If a local provider meets or exceeds the standards are they also approved. Where are the Learning Objectives, Topics Covered, Method, Student Activity,\ etc. routinely used in training or are these associations free to instruct as they see fit?

(3) What assurance is there that providers with current approved classes may continue teaching those classes. Are they now disqualified to teach as of 1-1-07?

(4) How can a state agency unapproved educational providers with a stroke of the \ pen?

(5) Does teaching R.E. finance nationally for more than twenty years qualify me as a national association? What is the legal definition of national association?

(6) Current providers are full time instructors. What assurance do we have that WAMB or any other organization will have professional instructor? Or will the instructors be

part-time; brokers who also work at another job? What instructor standards have been required?

(7) For the record, does DFI believe that the treatment existing education providers is fair under this program?

Does it give everyone a fair chance at the business? Is fairness important to DFI and the commission?

[Licensing Sub-Panel.](#)

4. Comment:

One thing that I often run into with realtors that recommend other mortgage brokers or loan officers is, they give their customers false/bad advise on mortgages. For example, I've asked why customers why they are going with other brokers and they have told me that their realtors have told them that there is no possible way that I could honor a certain rate/program or close the loan in time etc... Or they tell them that I would probably bait and switch them at the end and it would be too late for them to switch, so they say to just go with "the mortgage broker I recommend" so I can insure it closes on time... Also, some realtors explain the loan programs totally wrong, they don't understand PMI or conforming vs. non conforming and just give their clients BAD advise. It would be nice to see a law come into effect that says that realtors could not give mortgage advise or direct clients on particular programs, unless they were licensed brokers. Similar to how we cannot give real estate advise to our customers, unless we are real estate agents.

[It is a law already.](#)

5. Comment:

Problem: One of the reasonable concerns for DFI will be the possibility of unlicensed loan originators taking applications after January 1.

Solution: Either create a new form (WA Supplement to the 1003?) or, in the interest of reducing paperwork, combine into a new form, the following information:

- The name and license number of the broker
- The name and license number of the originator
- Signature of the loan originator and borrowers (this could be done at closing)
- Basic information about the loan
- The lender must have this form (faxed copy is OK) in its possession and have verified its contents before funding

Under this scenario, it would be difficult for a non-licensed originator to close a loan.

[Misc., Examination, and Enforcement Sub-Panels are already working on this.](#)

6. Comment:

We are beginning to update and automate our web-site to keep up with the times. Of concern is how to properly disclose and proof of disclosures. Borrowers are eager to use on line applications but fail to see the need to sign or even pay attention to disclosure. One option could be to force all disclosures to pop up before any application could be printed or completed. There could also be some sort of form that also listed all the disclosures with verbiage that each required disclosure had been made available. Any input would be helpful. It is difficult enough to get applicants to sign these items when mailed and highlighted. On line most will surely try to skip the process unless forced to at least have the opportunity to review. On line compliance will be very difficult for even those brokers who try to maintain compliance. I have seen some govt. sites who provide disclosure info that you must check the box I agree to read and accept before the next step is allowed. This seems to be a simple solution but is it enough? I am sure a common complaint is that the consumer when a problem occurs states that they either did not understand a form they signed or it was improperly explained. Will they even read a disclosure on-line? I am open to discussing this with you and look forward to other insights and solutions.

Chuck spoke to this person on the phone. He asked the person to put it in writing.

Jeff – The law covers this disclosure requirement.

Chuck – What does it mean to “provide?” We need to clarify in the rules.

Examination Sub-Panel.

Jeff – We’ve been talking about this issue already. This is also a good time to talk about rate sheet information and how you store it. What constitutes “good?”

7. Comment:

a. Testing requirements question: If someone has previously passed the broker exam but is not currently a designated broker will they be required to take the loan originator exam? If not, does the DFI keep a record of all those who have passed the broker exam?

Licensing Sub-Panel. Generally, no, if you have passed the designated broker exam, that will be good.

b. Continuing education: The current three-four hours of education is woefully inadequate. I suggest that more hours be required for brokers and originators. At a minimum I would like to see 8 hours a year. Attending 3 of the 4 mortgage commission meetings could count as four hours of the 8 required.

[Licensing Sub-Panel.](#)

c. Cost of multiple licenses: If an originator is licensed with more than one broker the second or additional licenses should charged a fee for the actual cost of issuing the additional license. The fee should not be charged as some sort of punitive cost for having more than one license. All along we have discussed that the DFI would and should only be charging for the cost to implement the changes to the mortgage brokers practices act. Additionally as a self funded department overcharging for services is NOT authorized through the MBPA.

[Chuck – We don't have an agreed upon answer yet. This is still being worked on by the Licensing Sub-Panel.](#)

8. Comment:

As a new loan originator, I currently work part-time out of two mortgage broker offices. For the following reasons:

1)One is licensed only for Washington State and gives me a higher commission split, but is not FHA licensed.

2)The other gives me a lower commission split, but has additional licensing for California and will be FHA licensed soon. Therefore I have specific loans that I will send to each, so my loyalty to either is not in question.

Which brings me to the purpose of this e-mail. If there is an additional license for each office. I propose that it is not at the full licensing amount, as this is cost-prohibitive and seemingly discouraging the practice of working at more than one mortgage broker office. As an independent contractor, I want the option to continue to do this without any penalty.

Also, will there be any protection for us as loan originators under this new regulation, for mortgage brokers that might be vindictive because of this practice and withhold commission?

[Licensing Sub-Panel.](#)

9. Comment:

The revisions to the Mortgage Broker Practices Act include language that a mortgage broker and a mortgage originator must comply with the regulations of each state, as well as federal regulation, conducting licensed mortgage origination within the State of Washington. I have a concern that there are restrictions that aren't yet well defined that apply to the ability of a mortgage originator to originate, in certain specific cases, mortgage loans for more than one licensed or exempted mortgage broker or lender.

1. During the April 27th, 2006 meeting in Renton, the panel openly discussed reasons that a mortgage originator would want to have the ability to originate loans for more than one licensed mortgage brokerage. An example of the motivation for a mortgage originator to wish to be affiliated with more than one brokerage was to allow the mortgage originator to originate loans that their main brokerage was not approved to originate, such as HUD insured (FHA) loans. However, HUD specifically states within their Mortgagee Approval Handbook that in fact a person must work for only one mortgage originating entity when originating HUD insured loans. In their handbook (4060.1, chapter 2-14) it reads as follows:

2-14 CONDUCTING MORTGAGEE BUSINESS. All employees of the mortgagee except receptionists, whether full time or part-time, must be employed exclusively by the mortgagee at all times, and conduct only the business affairs of the mortgagee during normal business hours. Branch managers must be located at the branch office they manage and cannot operate or be the manager of more than one branch office at the same time.

This would therefore preclude a mortgage originator from representing more than one brokerage (or exempted institution) for purposes of originating HUD insured loans. In fact, it would preclude any HUD approved mortgagee from employing the services of any person who represented another mortgage originating entity.

It would also seem to indicate that HUD approved mortgagees must 'employ' their originators. Therefore independent contractors, those that are compensated on a 1099 basis, would not be allowed to originate HUD insured loans in the first place.

2. Another reason given during the panel's discussion on the motivation for a mortgage originator to perform services for more than one mortgage brokerage was to allow for flexibility to originate loans in states that the mortgage originator's 'main' brokerage was not licensed to do business within. I have offices in Oregon, Washington and Idaho. In Oregon, state regulations require that every mortgage originator represent only one mortgage brokerage (as do most states I understand across the country - I believe that this is actually a federal requirement). Therefore, it is reasonable to state that a mortgage originator from the State of Washington doing business in most other states, including the State of Oregon, as an example, could not represent (or have the potential to represent) more than one licensed Washington mortgage brokerage during the time that they were actively originating loans in the State of Oregon. Because most states don't allow a mortgage originator to perform services for more than one mortgage brokerage, the State of Washington being one of the exceptions, I believe that there needs to be a mechanism in place to allow for positive confirmation that indeed a mortgage originator is only representing a single mortgage brokerage (for those states requiring this) when performing mortgage origination outside of the State of Washington.

Additionally, the State of Oregon (I am guessing Oregon is not alone, so I only bring up Oregon by way of example) does not allow mortgage originators to be compensated on a 1099 basis as they cannot meet the state's mortgage originator requirements that they only represent one originating firm and that they are supervised by the management of that firm (meaning they cannot be 'independent'). This being the case, no State of Washington mortgage originator that is compensated on a 1099 basis would be allowed to perform origination services for the financing of a residential property located within the State of Oregon and many other states across the U.S.

That was a decision that the legislature made. We shouldn't be interpreting or re-interpreting HUD requirements.

Chuck – We don't need to do anything with this comment.

10. Comment:

I want to find out about the licensing that is required for someone who is a loan originator. Is the same license as a mortgage broker? If not how do I go about getting a loan originator's license and can I get a mortgage broker license and work at another mortgage broker license kinda like an associate real estate broker's license? Please advise. Thank you.

Licensing Sub-Panel.

11. Comment:

I was wondering if you could clarify something for us. We are currently exempt under WA mortgage lending licensing by virtue of our approvals with FannieMae and FreddieMac. Under the revised rules that take effect 1/1/07, I understand that we will still be exempt, but will our employees (loan originators) also still be exempt?

We have had it interpreted many different ways, and are now thoroughly confused.

This is handled partly by statute. The Misc. Sub-Panel is working on this.

12. Comment:

I have a question regarding the Mortgage Broker Exam for the new requirements coming up. I took the Mortgage Brokers Exam in 1998. I am wondering if I need to retake that test or if it is just my Loan Officers that will need to take the test. My company is a Net Branch and I am the Branch Manager.

Licensing Sub-Panel.

13. Comment:

It would be great to have something in place so that a real estate sales agent that was not licensed as a loan originator could not order, review or comment upon a GFE. I recognize there is often no major harm but feel as though we as licensed loan originators we should be the ones reviewing our GFE with our customers without the limited and unknowledgeable scrutiny of a real estate sales agent. Often these agents have no real details about either the customer's financial file or specifics, credit score....etc or other data that impacts the lending scenario, nor do they have any information about the myriad of loan products available in the marketplace today and how those products work. They are often "ill-informed" and because of a lack of knowledge often make poor or misguided recommendations. As I understand it, real estate agents are free from "shopping" once they have a signed purchase and sale agreement, meaning as a loan originator I can't recommend another real estate agent to my customer (not that I would). However, it seems a real estate agent can recommend another Mortgage Broker or Loan Originator at any time and pull the rug out from underneath us without any opportunity to compete, and we end up losing good customers to the real estate agents "preferred" broker. It seems as if this playing field is not level."

[Statutory issue also. The Misc. Sub-Panel will deal with this under Coverage and Scope, if necessary.](#)

14. Comment:

I cannot locate any information on the new educational requirements for loan officers in the State of Washington. where is this info being hidden?

[Licensing Sub-Panel.](#)

Comment:

Just a simple question concerning the Licensing of Loan Officers.

I am going into Semi-Retirement and therefore plan to hand off the Designated Broker role to one of my staff who has already taken and passed the Mortgage Broker Exam.

I am presuming Designated Brokers will not sit for the Loan Officer Licensing Exam.

But, is there any provision for former Designated Brokers who have completed their Annual Clock-Hour Training, to be excluded from the Loan Officer Licensing exam. While I do not anticipated much Loan Origination Activity in my Retirement, it could be that former clients will contact me for this service and I would like to know if I must take the Loan Officer Licensing exam as a former Designated Broker.

[Licensing Sub-Panel.](#)

5. Sub-Panel Reports:

Licensing Sub-Panel – May 2 meeting - Jeffrey reported that the group went through the loan originator portion of the rules and made some assignments – continuing education, what happens with sub contractors for processors and contractors doing loan originations and whether or not they're allowed to have employees. It is believed that people working under a 1099 cannot have employees of their own.

Today's Licensing Sub-Panel meeting – The Sub-Panel met between the Mortgage Broker Commission meeting and this rules meeting. They covered everything from licensing issuance, denial, expiration, renewals, interim licenses, surrendering licenses, etc. They also addressed the duties between processing and loan originating and the clarifications there. Some of what the Sub-Panel worked on today is in the Panel version that we will review under agenda item #6.

Examination Sub-Panel – Jeff said he is going to be the guinea pig for the first examination. He'll keep track of the time to prepare for the exam, etc. There is a checklist of things Jeff needs to prepare for his exam. We'll then have an idea of how much time is needed in each step of an examination. The Sub-Panel continues to look at the examination manual. Rick St. Onge, DFI, has embedded excel documents into the manual. They also discussed record keeping and review of the trust account.

Enforcement Sub-Panel – Laura said they have only one meeting so far. They spent the majority of that time going through the Act and making assignments. The Sub-Panel has another meeting May 15. We plan to have some language ready for the June 1 Panel meeting.

Misc. Sub-Panel – Laura said it has been interesting defining some of the terms. We will review some of that work today when we look at the first version of the WAC language.

6. Work Session with Latest WAC Version

Deb – Deb asked Chuck if he was going to have the Commission approve each section as we discuss it.

Chuck – He's assuming if there isn't any discussion, everyone is okay with it. That highlighted language will change to black for the next version.

Page 1 – A. – Added "Coverage" to the title.

Page 1 – New definition of rule. Deb brought in the APA definition. Deb wants to change the question to “What is the difference between the MBPA and the Mortgage Broker rules?”

New answer: “A statute is a law that is passed by the state legislature. A rule or regulation is an order or directive adopted by a state agency after a public hearing is held allowing for citizen input. Rules are used by agencies to implement a statute or fill in the gaps of legislation. A rule is generally applicable to a group of people, industries, activities, or circumstances. The violation of which may subject a person or a business to a penalty or administrative sanction.”

Page 2 - New Section: What is the scope and coverage of the Mortgage Broker Practices Act and these rules?

Page 2 - Scope and coverage.

Jeffrey – Didn’t we have something about compensation and gain in there?

Chuck – He thinks that is covered under (1). We may want to have a question and answer. “If I am not doing a transaction for any compensation or gain, am I a mortgage broker?” The answer is no. Add it in if we don’t already have a similar question.

(1) What persons or entities are covered?

Chuck – That definition contains compensation and gain.

(2) What type of transactions are covered?

Page 3 - (3) What is residential real estate?

(4) Where must residential real estate be located for (a residential mortgage) transaction to be covered? We need to fix the language in that question. Add “a residential mortgage.”

Chuck - See Chuck’s note.

Page 3 – (1) – Defined “Act.”

Page 4 – (7) – Defined “bait and switch.” Laura and Chuck finally agreed on this language.

Chuck – The purpose of this rule is to put the mortgage broker and loan originators on notice.

Jeffrey – Deceptive practices. Maybe you should add the classical one. Jeffrey will draft a phrase for someone purposely advertising something that doesn't even exist or you don't have the ability to give or have no intention to give.

Page 6 – (15) – We have added some additional language to the definition of “control.” Cindy Fazio’s note said this largely comes from the RESPA definition.

Page 7 – (23) (b) – Added “if such conduct would constitute a violation of the act” to the definition of “financial misconduct.”

Page 8 – (23) (d) – Added “identity theft.”

Adam – Do you want to add “but not limited to?”

Deb – By using “include,” the “but not limited to” is understood.

Page 9 – (31) – Changed “person” to “location.”

Page 10 – (38) – Added “for a refinance of a primary residence for any purpose, loan applications” to the definition of “Residential mortgage loan.”

Chuck - Three things we look at: Primary residence, vacation home, and non-owner occupied properties are only covered if the proceeds being used are primarily for your family.

Adam – How do we verify that?

Chuck – The loan processor needs to be smart enough to put in purpose of the loan. Don't leave it blank.

Jeffrey – What are we trying to exclude by not covering all non-owner occupied refinances?

Adam – They haven't been under the Act.

Adam – Adam understands the intent, but he's not sure he likes how broad it is.

Chuck – Rewrite – “Residential real estate if the proceeds of the loan are known to be used or are used . . . “

Jeffrey – “provided the proceeds . . . “

Chuck – If you know the proceeds aren't going to be used for family, personal, or household, you need to disclose this loan.

Jeff – Misc. Sub-Panel needs to do some more work on this.

Page 10 (39) – Needs some re-formatting. We will renumber. Change “a” to read “Residential real estate includes, but is not limited to:” and change “b” to read “however, residential real estate does not include:”. Make the current (a), (b), (c) . . . into bullets. Add an additional one saying “cooperatives” in between the current (e) and (f).

Jeff – Make sure it is over-road to exclude commercial purposes.

Chuck – We’re trying to define terms that are defined in the Act. We need to do that under purpose, scope and coverage.

Jeffrey – Wants to add co-ops in there if it is the primary residence.

Chuck – Could a co-op be a single family home?

Jeffrey – With a condominium you own specific space, with a co-op you own a percentage of the complex with rights to occupy a certain space. Ownership of a co-op is more like a company or partnership.

Jim Irish, appraiser. The lending on co-ops is residential lending, because FannieMae and FreddieMac buy loans on cooperatives as well as condominiums. They have separate appraisal forms for cooperatives vs. condominiums. Your definition of condominium is correct. In a cooperative, you are buying stock in the corporation that owns real estate and that is where you find your percentages. It is financed as residential real estate.

Chuck – Does that change the physical existence of real estate?

Jim Irish – It does. They are only common in a few cities, including Seattle. The cooperative unit is defined in that they are approving the borrower to buy that cooperative unit. The fee simple ownership of the real estate is in the hands of the corporation. When you buy a condominium, you have the fee simple ownership of your unit within the condominium project.

The likelihood of a cooperative is that they are more than five units.

Jeff – But you could buy only one unit.

Jim Irish – Would urge you to treat a cooperative the same as a residential unit for the purposes of this Act. Look at the FannieMae and FreddieMac guidelines.

Need to add “cooperatives” as (f) and renumber after that.

Misc. Sub-Panel.

Page 11 – (40) – Subsidiary. This needs to go back to the Misc. Sub-Panel.

Page 11 - C. EXEMPTION FROM LICENSING

New Section. If I am licensed as an insurance agent, do I need a separate license to act as a mortgage broker or loan originator?

There's a difference between an agent and a company.

New Section. If I am doing business as an authorized insurance company with a certificate of authority in any state, do I need a separate license to act as a mortgage broker?

Chuck has a problem with "any" state at the very bottom of page 11.

Misc. Sub-Panel will fine tune.

Page 12 – Middle of page. New Section. As an attorney, do I need a mortgage broker or loan originator license when I negotiate a residential mortgage loan in the course of my practice?

Adam – What is "incidental?" How do you measure incidental? Number of transactions? Amount of time spent?

Back to the Misc. Sub-Panel to clarify "incidental."

Page 13 – Added "compensation and gain."

Page 14 – (K) – LOAN ORIGINATOR LICENSING

This section is being reworked by the Licensing Sub-Panel. We discussed this section at the Licensing Sub-Panel meeting on May 10 prior to this Panel meeting.

Page 16 – License Issuance.

This section is also being reworked by the Licensing Sub-Panel.

Jeffrey – Jeffrey brought up the comments made today at the Mortgage Broker Commission meeting about getting an inactive license and then activate it once you are associated with a mortgage broker.

Chuck – The Licensing Sub-Panel discussed that and will continue to work on the entire K. section for the next Panel meeting.

Page 23 – 1. Examination Authority

Is a mortgage broker that table funds a loan exempt from disclosure?

Laura – Should we explain “table funds?” Define?

Chuck – It’s a term of art in the industry. Look into a definition.

Jeffrey – Possible new question. “Does the source of funds have any bearing on whether or not you need a mortgage broker?”

Chuck – 1. Look to see if there is a definition of “table funds” and 2. Possibly use the question above.

Send back to the Examination Sub-Panel.

Jeff – “Is a mortgage broker that funds a loan in the lender’s name exempt?”

Deb – This should be under N. DISCLOSURE REQUIREMENTS instead of Examination Authority.

Chuck – Okay, move it to N.

Page 23 - Do I need to display my loan originator license at the location where I am registered?

Chuck – Added a sentence “. . . the license must be made available for review upon request.”

Page 23 - Do I need to disclose my loan originator license number to the borrower?

Jeff – Need to rewrite the opening paragraph. “In the following instances, the loan originator must: . . . ”

Chuck – Okay. Change the questions then. “When do I need to disclose my loan originator license number to the borrower?”

Laura – Chuck – Simplify the language on (2).

Page 24 – In addition to the act, what other laws do I have to comply with?

7. Public Comments

Lam Nguyen

Loan origination through a website - When we require the borrower to check a box next to disclosures, is that enough to show they have been given the disclosures?

Chuck – Chuck told the person who wrote in those comments that those kinds of things are acceptable as long as you can't move through the screens without checking that you read the disclosures (whether or not you actually read them), but you are saying you did by proceeding.

Adam – There are a number of disclosures that you are required to disclose. You might put the disclosures on separate pages/screens.

Chuck – How would the examiners physically see that the borrower has seen every screen? How would we know that was the actual screen the consumer saw?

Lam – Those would be captured in the final document that is delivered to the broker's office in a PDF format.

Chuck – Who is responsible for making those disclosures?

Chuck – The minute you accept the application, it becomes your responsibility to provide those disclosures.

Lam – Is it acceptable to send the borrower an email or do you need to overnight it to them? What is acceptable in showing that we have disclosed?

Lam – We can accept the application in PDF format.

Chuck – DFI needs to verify that you have disclosed:

Under .030 – record showing that you've sent it
Under .060 – record retention requirement

Chuck – Chuck had many questions about online systems:

- A consumer is clicking that they agree or they have read it, how do we know that the software works or was working at some particular moment in time?
- How do we know that they didn't just modify the software when an examiner came in?
- How do we know that the system is making the disclosures it is supposed to make?
- How do we know that the system was working on June 1 two years ago?

Lam – Currently they overnight all the disclosures after an application has been made. As we move forward into Internet based applications, what do we use?

Chuck – Our intent is to put some guidance in the rules. The guidance will probably come in a range of ways to document.

Chuck – Just for clarification, there are five disclosures required under the MBPA, three are unique to Washington, the other two are the good faith estimate and the truth in lending. The other three refer to trust accounting, the lock disclosure, and availability of third party reports.

Chuck – As long as you can print that disclosure form for us and show that the disclosure was unique to that borrower, that would be fine.

Barry Wilson

He is an appraiser, and they went through a complete rules rewrite last year. They had work sessions like this. Most of the meetings were via email, except a few public meetings in conjunction with Commission meetings. This year they're going to Kennewick. It's encouraging that the Mortgage Broker Commission goes east of the mountains every year.

License numbers – Barry is required to put his number on every appraisal report he does. The new FannieMae forms have a place to list the client and the individual ordering the appraisal. FannieMae wants to be able to go after everybody involved if a loan goes bad. As more states have loan originator licensing, he thinks the federal forms will have a space for the loan originator number.

Barry – Real estate agents post their license on the wall in the office. Appraisers aren't required to do that.

Jim Irish – Page 14 – Section G. LOAN ORIGINATORS, testing and continuing education. What is the status?

Chuck - That is being worked on by the Licensing Sub-Panel right now. Hopefully we will have information to bring to the June 1 Panel meeting.

Jim - Is there any trend toward the format of the test?

Chuck – We plan to have a bank of 1000 test questions available publicly. When someone goes to take the test, they'll get 100 of those questions.

Jim - Ambiguity of use of the word “examination” on page 22 and 24.

Chuck – We think we’ve clarified that in definition. Page 7 (21) defines “examination.”

Jim – Page 22 – Do processors need a license? Processors bring pressures on appraisers, so therefore they’re part of the lender pressure problem being discussed in this state as well as other states.

Chuck – We want processors doing loan originator activity to hold a license. We’re trying to find a balance.

Jim – “Control” – also relates to the lender pressure area in something that is known in the lender world as “captor appraiser” if a broker is exclusively using one or two appraisers.

Chuck – Do you mean affiliated business arrangement type of control? Look at the definition of “control” under RESPA.

5. Meeting Schedules

- June 1, from 2-4:30 p.m., Renton City Hall
- June 15, from 2-4:30 p.m., Renton City Hall
- June 29, from 2-4:30 p.m., Renton City Hall
- July 13, from 2-4:30 p.m., Renton City Hall
- July 27, from 2-4:30 p.m., Renton City Hall

9. Other

Meeting called to order: 2:10 p.m.

Meeting adjourned: 4:20 p.m.